

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

Derrell Jones

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-against-

A.D.A. Caroline Schneider
Police officer Matthew DeNicola
Modica, D

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

AMENDED

**Complaint for Violation of Civil
Rights**
(Non-Prisoner Complaint)

Case No. _____

(to be filled in by the Clerk's Office)

16-CV-3140 (WFK) (VMS)

Jury Trial: ☐ Yes ☒ No

(check one)

FILED
IN CLERK'S OFFICE
US DISTRICT COURT E.D.N.Y.

★ OCT 18 2016 ★
8:39 AM · RV.
BROOKLYN OFFICE

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed *in forma pauperis*.

1

10-11-2016: Date Date of my Arrest occur?

Was March 26, 2016. Time: 18:00

Place of occur 88-44-162 street

Police officer Matthew De Nicola was the first officer on the scene when officer matthew Walked up to me and, my Wife We told Him that she fell into a gate, he ask me to move Back away from my Wife and Drop the scorf and put my hands, Behind my Back I did so and then he Punch me in my face for know reason at all after that they put me in a Van and asked my Wife What happended she told them the same thing I had said the first time so officer matthew got made and Have my Case to another officer Witch is officer P.O. Joseph Loiacono from the 103rd PCT officer matthew did not see anything happen that day he tied for the A.D.A. just to get me prosecuted for a favor for the A.D.A that's not White here is Proof With the Motion to suppress Evidence obtained as a Result of an Unlawful Arrest... the A.D.A Did not Answer the Motion Because I did not do anything to my Wife I should not have Been Arrested

2

10-11-2016: DATE This statement is for the A.D.A
A.D.A Caroline schneider Domestic Violence
Bureau

This District Attorney
This for Date 3-10-2016
is a Big Lier she told me if I would
finnish a Program she would Give me
and my Wif a limited order of Protection
for 90 days Witch is PL 215.50 family Court
order of Protection not a felony order,
just Because she had put the Wrong date
untit 2020 for five years she is making
the Court Believe that she has a full
felony stayaway order of Protection
she is not showing the order of Protection
to anyone, I am sending Proof of that order
of Protection, right as of now i am going
to a judge trial on the 3rd of November
Mounth With the same judge Who
granted my Motion to suppress by
Unlawful Arrest. Because they see that
the A.D.A Doesn't have anything on me
she in fact Did not Answer the Motion
Back Because my Wife told my Lawyer
the samthing I testified at the Grand
jury and said so I told the truth she
did not she just keep on lying to the Court
sending Proof of that

This is for 9-15-2016

10-11-2016: Date This statement is for the
judge: Modica, D.

I really feel the miss Modica can
do a Better job with my Case by
not allowing my Case in her Courtroom
after she looked at my Charges she is
still letting the District Attorney keep
my Case going in supreme Court Without
Proof that anything Happened at all,
so I really feel she can do a Lot
Better With my Case
judge: miss Modica, D

Actually Granted me a hearing on "Huntley"
and "Dunaway v. New York" and the A.D.A
did not Answer the Motion at all
to suppress Evidence obtained as a
Result of an Unlawful Arrest

I would like my freedom Back
Please Because this is not right

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	<u>Derrell Jones</u>
Street Address	<u>18-18-Hazen Street</u>
City and County	<u>East Elmhurst</u>
State and Zip Code	<u>New York 11370</u>
Telephone Number	<u></u>
E-mail Address	<u></u>

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name	<u>A.D.A Caroline Schneider</u>
Job or Title (if known)	<u>District Attorney</u>
Street Address	<u>125-01 Queens Blvd</u>
City and County	<u>Kew Gardens New York</u>
State and Zip Code	<u>11415</u>
Telephone Number	<u>(718) 286-5818</u>
E-mail Address (if known)	<u></u>

Defendant No. 2

Name CAROLINE SCHNEIDER
Job or Title A.D.A
(if known)
Street Address 125-01 QUEENS BLVD
City and County Kew GARDENS,
State and Zip Code NEW YORK 11415
Telephone Number (718) 286-5818
E-mail Address _____
(if known)

Defendant No. 3

Name OFFICER MATTHEW DeNICOLO
Job or Title POLICE OFFICER
(if known)
Street Address 103 Precinct
City and County _____
State and Zip Code _____
Telephone Number _____
E-mail Address _____
(if known)

Defendant No. 4

Name Miss Modica, D
Job or Title ~~Judge~~ Judge
(if known)
Street Address Queens Supream Court
City and County Part K15
State and Zip Code _____
Telephone Number _____
E-mail Address _____
(if known)

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (*check all that apply*):

- ☒ State or local officials (a § 1983 claim)
☐ Federal officials (a *Bivens* claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

4 AND 14th UNITED STATES CONSTITUTION
AMENDMENTS 4th AND 14th New York
CONSTITUTION Article 1, Section 12.

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

D. Section 1983 allows defendants to be found liable only when they have acted “under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia.” 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

III. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. Where did the events giving rise to your claim(s) occur?

Court Part K15 April 1 2016

- B. What date and approximate time did the events giving rise to your claim(s) occur?

4/15/2016 Domestic Violence Court
Ramanded

- C. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

I should not have Been Arrested
But when the Arresting officer
saw my names the A.D.A WAS calling
the Police officer Phone SENDING
Proof of that

IV. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

stressing me out
With lies

V. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

I am requesting money damages in the amount of six Million dollars the Basis of my Claim is the loss of my Liberty, Property my Apartment my SSi income everything I ~~own~~ OWN

VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 10-12, 2016

Signature of Plaintiff Derrell Jones

Printed Name of Plaintiff Derrell Jones

such report or document relates thereto, or if such report or document was made by a person other than defendant, whom defendant intends to call as a witness at trial; and (b) any photograph, drawing, tape, or other electronic recording which the defendant intends to introduce at trial.

BILL OF PARTICULARS

The function of a bill of particulars is to define more specifically the crimes charged in the indictment. People v. Raymond G., 54 A.D.2d 596 (4th Dep't 1976). Thus, it is not to be used as a discovery device. People v. Davis, 41 N.Y.2d 678 (1977). The defendant has the right to be informed of the conduct which forms the basis for the accusation against him. People v. Fitzgerald, 45 N.Y.2d 574, 597-90 (1978).

The People herewith provide a bill of particulars, keeping in mind these additional principles: (a) the People are not required to include matters of evidence relating to how they intend to prove any factual information included in the bill of particulars, C.P.L. § 200.95; (b) the request for a bill of particulars is not to be used as a fishing expedition; C.P.L. § 200.95, Bellacosa, Practice Commentary, McKinney's Cons. Laws of N.Y., Book 11A, CRIM. PROC. LAW § 200.95, p. 546 (1992); and (c) the test is not whether the information sought may be "useful" to the defendant, but whether such is "necessary" to adequately prepare to conduct the defense, and the burden is upon the defendant to demonstrate such. Hence, a bare statement of need is insufficient. C.P.L. § 200.95, Practice Commentary at 546, Bellacosa, J. (McKinney 1982).

1. The substance of the defendant's conduct encompassed by the charges which the People intend to prove at trial on their direct case is as follows:

Upon information and belief, the source being Police Officer Matthew DeNicola, on March 26, 2016, at approximately 17:20, in the vicinity of 89-44 162 Street, the defendant punched the complainant, Carlisa Watson, multiple times in her face and body, causing swelling, bleeding, and contusions. These actions violated a valid limited order of protection issued on behalf of the complainant against the defendant, issued on March 10, 2016, and valid until August 27, 2020.

*Police Officer
Matthew Lies*

2. The People intend to prove that the defendant acted as: Principal.

The People oppose defendant's further requests because they are evidentiary in nature and beyond that which is required to be provided pursuant to C.P.L. § 200.95. In addition, some of the requested material is provided below pursuant to the Demand for Discovery.

Law.

DEMAND FOR DISCOVERY

The People herein, pursuant to Section 240.20 of the Criminal Procedure Law, disclose to the defendant and make available for inspection, photographing, copying or testing, the following property:

a. Any written, recorded, or oral statement of the defendant, and of a co-defendant to be tried jointly, made, other than in the course of the criminal transaction, to a public servant engaged in law enforcement activity or to a person then acting under his direction or in cooperation with him (C.P.L. §240.10(1)(a)):

The defendant made the following statement(s) to law enforcement officials which the people intend to introduce on the trial of this indictment:

Defendant: DERRELL JONES

Date: March 26, 2016

Location: 103 Precinct

Made to: P.O JOSEPH LOIACONO

Substance of Statement: We were both drinking, she fell down into a gate and hit her head, that's how she got the cut

b. Any transcript of testimony relating to the criminal action or proceeding pending against the defendant given by the defendant or by a codefendant to be tried jointly, before any Grand Jury (C.P.L. §240.20 (1)(b)):

The defendant's Grand Jury testimony is attached hereto.

c. Any written report or document or portion thereof, concerning a physical or mental examination, or scientific test or experiment relating to the criminal transaction which was made by, or at the request or direction of, a public servant engaged in law enforcement activity, or which was made by a person whom the prosecutor intends to call as a witness at trial or which the people intend to introduce at trial (C.P.L. § 240.20(1)(c)):

The demanded material is not in the District Attorney's possession but a diligent effort will be made to determine whether it is held elsewhere and, if so, it will be disclosed in a timely manner.

d. Any photograph or drawing relating to the criminal action or proceeding which was made or completed by a public servant engaged in law enforcement activity, or which was made by a person whom the prosecutor intends to call as a witness at trial, or which the People intend to introduce at trial (C.P.L. §240.20(1)(d)):

The following described property exists:

Arrest Photo(s) of DERRELL JONES

Other: Photograph(s) of Carlisa Watson's injuries

Copies of the above described items are attached hereto.

e. Any photograph, photocopy or other reproduction made by or at the request of a police officer, peace officer, or prosecutor of any property prior to its release pursuant to the provisions of Section 450.10 of the Penal Law, irrespective of whether the People intend to introduce at trial the property or the photograph, photocopy or reproductions (C.P.L. § 240.20 (1)(e)):

No such information exists.

f. Any property obtained from the defendant or from a codefendant to be tried jointly (C.P.L. §240.20 (1)(f)):

No such information exists.

g. Any tapes or other electronic recordings which the prosecutor intends to introduce at trial, irrespective of whether such recording was made during the course of the criminal transaction. (C.P.L. §240.20 (1)(g)):

The following above described property exists:

911 calls and NYC DOC recordings

Copies of the above described recordings will be provided when defense counsel furnishes the District Attorney with the appropriate media for copying.

h. Anything required to be disclosed, prior to the trial, to the defendant by the prosecutor, pursuant to the constitution of this State or of the United States (C.P.L. §240.20 (1)(h)):

The following Brady Material is known to the People:

On March 26, 2016, Carlisa Watson, the complainant, told police officers that she did not remember what happened.

The People acknowledge the continuing obligation to provide Brady material should the same become known to us.

12/1/16

3/27/16

I Derrell Jones release
+ authorize Carlisa Watson
to take possession of
my Master Card Direct
Express Card, Benefit
Card and all
loose papers.

Derrell Jones

Carlisa Watson

I accept full responsibility
for above mentioned items

Witness - A. J. [Signature]

Sprite was purchased
for Def. by Polina [Signature]

Further, such statements were made without the defendant adequately receiving or understanding Miranda (384 U.S. 436) warnings.

A hearing, pursuant to Huntley, 15 N.Y. 2d 72 is requested.

**II. MOTION TO SUPPRESS EVIDENCE OBTAINED AS A
RESULT OF AN UNLAWFUL ARREST**

On or about March 26, 2016 the defendant was arrested, without a warrant, by officers of the Queens County Police Department.

The arresting officers did not observe the defendant commit any criminal act nor did they have any reasonably trustworthy information which supported the conclusion that the defendant had committed a criminal act. The arrest was thus without probable cause and in violation of defendant's constitutional rights. United States Constitution Amendments IV and XIV; New York Constitution, Article I, Section 12.

All evidence obtained as a result of and due to the exploitation of an unlawful arrest must be suppressed as "tainted fruit" of the constitutional violation. Wong Sun v. United States, 371 U.S. 471 (1963) (tangible property seized subsequent to an unlawful arrest); Dunaway v. New York, 442 U.S. 200 (1979) (evidence of statements; United States v. Crews, 445 U.S. 463 (1980) (identification evidence).

The defendant therefore moves, pursuant to CPL §710.20(1), (3) and (5), to suppress all evidence (including physical evidence, statements and identification evidence) obtained due to the exploitation of his unlawful arrest.

The defendant further requests that this motion to suppress be granted summarily pursuant to CPL §710.60(2). In the alternative, the defendant requests a hearing pursuant to CPL §710.60(4) to aid the Court in determining the issues raised herein. Dunaway v. New York,

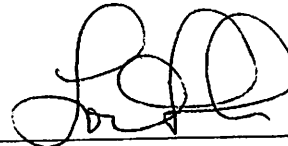
A.D.A Did not ANSWER 9-22-2016
the motion 2 Going to
trial
By
Judge
ON September 22, 2016
Part K15
11-3-2016

Subject to the resolution of the aforesaid motions, the defendant reserves the right to speedily move to suppress any other unlawfully seized evidence, upon discovery of such evidence. The defendant reserves the right to request an adjournment after pre-trial hearings and to investigate information developed at said hearing, pursuant to People v. Peacock, 31 N.Y. 2d 907.

No prior application for the relief herein requested has been made.

WHEREFORE, your affirrant respectfully requests that the foregoing motions be granted and for such other and further relief as to this Court may deem just and proper.

Dated: Westbury, New York
April 26, 2016

A handwritten signature in black ink, appearing to read 'Lori Golombek', is written over a horizontal line.

LORI GOLOMBEK, ESQ.

No Victims for Complaint # 2016-103-02410			
No Witnesses for Complaint # 2016-103-02410			
No Reporters for Complaint # 2016-103-02410			
No Wanteds for Complaint # 2016-103-02410			
ARRESTS:		Complaint # 2016-103-02410	
<u>Arrest ID</u>	<u>Status</u>	<u>Defendant Name</u>	<u>Sex</u> <u>Race</u> <u>AGE</u> <u>Arrest Date</u>
Q16615201	ACTIVE	JONES, DERRELL MALE	BLACK 41 03/26/2016
No Property Data for Complaint # 2016-103-02410			
No Evidence Data for Complaint # 2016-103-02410			
No IMEI Data for Complaint # 2016-103-02410			
No Vehicles for Complaint # 2016-103-02410			
NOTIFICATIONS / ADDITIONAL COPIES:		Complaint # 2016-103-02410	
No Notifications		No Additional Copies	
Reporting/Investigating M.O.S. Name:	Tax #: 000000	Command:	Rep.Agency:
Supervisor Approving Name:	Tax #: 000000	Command:	Rep.Agency:
Complaint Report Entered By: POF PILKINGTON	Tax #: [REDACTED]	Command: 103 PCT	Rep.Agency: NYPD
Signoff Supervisor Name:	Tax #: 000000	Command:	Rep.Agency:
END OF COMPLAINT REPORT # 2016-103-02410			

[Print this Report](#)

ARREST Report- Q16615201

Page 3 of 3

Arresting Officer Name: POM LOIACONO, JOSEPH	Tax #: [REDACTED]	Command: 103	Agency: NYPD
Supervisor Approving: SGT FIDANZA STEPHA	Tax #: [REDACTED]	Command: 103	Agency: NYPD
Report Entered by: POF PILKINGTON, VA	Tax #: [REDACTED]	Command: 103	Agency: NYPD
END OF ARREST REPORT Q16615201			

Queens County District Attorney
Intake Bureau Crime Report
Domestic Violence Case
Civilian Witness

Injury	Treatment Type	Dt Treated	Place Treated
BLEEDING LACERATION/ CONTUSION	HOSPITAL	03/26/2016	JAMAICA HOSPITAL

Queens County District Attorney
Intake Bureau Crime Report
Domestic Violence Case
Messages

SOPHIA VILLACRESES	INTAKE	3/26/2016 8:18:00 PM	ADA/Paralegal assigned to this case: SOPHIA VILLACRESES
SOPHIA VILLACRESES	INTAKE	3/26/2016 8:17:00 PM	Crime Report Required

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS: CRIMINAL TERM: PART:

X

THE PEOPLE OF THE STATE OF NEW YORK

-against-

DERRELL JONES

Defendant.

IND #: 784/2016

X

**NOTICE OF INTENTION TO OFFER AT TRIAL EVIDENCE OF A
STATEMENT(S) MADE BY THE DEFENDANT TO A PUBLIC SERVANT
PURSUANT TO CPL § 710.30(1)(a)**

PLEASE TAKE NOTICE, that the People intend to offer at trial the ORAL statement made by the defendant to PO LOIACONO on March 26, 2016, at approximately 6:20 PM, at 103 PRECINCT.

The substance of defendant's statement(s) is

**WE WERE BOTH DRINKING, SHE FELL DOWN INTO A GATE AND HIT HER HEAD,
THATS HOW SHE GOT THE CUT**

DATED: Kew Gardens, New York
April 4, 2016

Respectfully submitted,

RICHARD A. BROWN
DISTRICT ATTORNEY
QUEENS COUNTY

BY:

CAROLINE SCHNEIDER

Assistant District Attorney
DOMESTIC VIOLENCE Bureau
(718) 286-5818
CCSchneider@queensda.org

TO: Clerk of the Court, PART

Attorney for Defendant
DOROTHY RIORDAN HUGHES
QUEENS LAW ASSOCIATES
118-21 QUEENS BOULEVARD
SUITE 212
FOREST HILLS, NY 11375

*not going to use statement
from sep 22, 2016*

1



NYPD PETS PROPERTY and EVIDENCE
TRACKING SYSTEM
Property Clerk Invoice
PD 521-141 (Rev. 11/09)

Invoice No. **4000386878**Invoicing Command
103TH PCT.Invoice Status
OPENInvoice Date
03/27/2016Property Type
GENERAL PROPERTYProperty Category
SAFEKEEPING

Officers	Rank	Name	Tax No.	Command	
Invoicing	POM	LOIACONO, JOSEPH	956048	103RD PRECINCT	OCME, EU No.
Arresting	POM	LOIACONO, JOSEPH	956048	103RD PRECINCT	OCME, FB No.
Investigating	N/A				Police Lab Evid. Ctrl. No.
Det Squad Supervisor	N/A				Det Sqd. Case No. N/A
CSU/ECT Processing	N/A				CSU/ECT Run No. N/A

Item	Total QTY	Article(s)	PETS No.	Pkg. QTY	Disposition
1	1	HEADPHONE COLOR: ASSORTED COLORS MAKE: SENTRY SENTRY EARBUDS	1202592370	1	
2	1	CELL PHONE COLOR: BLACK MAKE: LG MODEL: LS740 IMEI #: 357658064298239 1 BLACK LG PHONE WITH MINOR SCRATCHES ON FRONT SC	1202592370	1	
3	1	CELL PHONE - ACCESSORIES COLOR: ASSORTED COLORS BLACK/RED CELL PHONE CASE	1202592370	1	

REMARKS:
956048 03/27/2016 03:14 : ABOVE ITEMS ARE BEING VOUCHERED AS SAFEKEEPING

Date Of Incident	Penal Code/Description	Crime Classification	Related To	Receipt
03/26/2016	?/ORDER PROTECTION-VIO	MISDEMEANOR	N/A	ACCEPTED

Prisoner(s) Name	D.O.B	Age	Address	Arrest No./Summons No.	NYSID No.
1 JONES, DERRELL	03/14/1975	41	160-11 89 AVENUE, QUEENS, NY	Q16615201	07312436J

Name	Tax No.	Address	Phone No.
------	---------	---------	-----------

Finder(s)	
Owner(s)	JONES, DERRELL
Complainant(s)	PSNY

Complaint No.	2016-103-02410
---------------	----------------

Related Comp No.(s)	N/A
---------------------	-----

Aided/Accident No.(s)	N/A
-----------------------	-----

Related Invoice(s)	N/A
--------------------	-----

Invoice No. **4000386878**Property Clerk Copy
printed: 03/27/2016 0:35

PCD Storage No. --

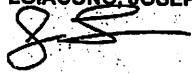

Page No. 1 of 2



NYPD PETS PROPERTY and EVIDENCE
TRACKING SYSTEM
Property Clerk Invoice
PD 521-141 (Rev. 11/08)



Invoice No. **4000386878**

Approvals	Rank	Name	Tax No.	Command	Date	Time
Entered By	POM	LOIACONO, JOSEPH	956048	103RD PRECINCT	03/27/2016	03:03
Invoicing Officer	POM	LOIACONO, JOSEPH 	956048	103RD PRECINCT	03/27/2016	03:33
Approved By	SGT	CHANG, KENGMING 	918762	103RD PRECINCT	03/27/2016	03:33



Invoice No. **4000386878**

Property Clerk Copy

printed: 03/27/2016 03:35

PCD Storage No. --

Page No. 2 of 2

ORI No: NY040033J
 Order No: 2016-006969
 NYSID No: 07312436J
 CJTN No: _____

PRESENT: Honorable Bruno L. DiBiase

PEOPLE OF THE STATE OF NEW YORK
 - against -

JONES DERRELL,
 Defendant

DOB: 03/14/1975

NOTICE: YOUR FAILURE TO OBEY THIS ORDER MAY SUBJECT YOU TO MANDATORY ARREST AND CRIMINAL PROSECUTION WHICH MAY RESULT IN YOUR INCARCERATION FOR UP TO SEVEN YEARS FOR CONTEMPT OF COURT. IF THIS IS A TEMPORARY ORDER OF PROTECTION AND YOU FAIL TO APPEAR IN COURT WHEN YOU ARE REQUIRED TO DO SO, THIS ORDER MAY BE EXTENDED IN YOUR ABSENCE AND CONTINUE IN EFFECT UNTIL A NEW DATE SET BY THE COURT.

THIS ORDER OF PROTECTION WILL REMAIN IN EFFECT EVEN IF THE PROTECTED PARTY HAS, OR CONSENTS TO HAVE, CONTACT OR COMMUNICATION WITH THE PARTY AGAINST WHOM THE ORDER IS ISSUED. THIS ORDER OF PROTECTION CAN ONLY BE MODIFIED OR TERMINATED BY THE COURT. THE PROTECTED PARTY CANNOT BE HELD TO VIOLATE THIS ORDER NOR BE ARRESTED FOR VIOLATING THIS ORDER.

☐ TEMPORARY ORDER OF PROTECTION - Whereas good cause has been shown for the issuance of a temporary order of protection

☒ ORDER OF PROTECTION - Whereas defendant has been convicted of [specify crime or violation]:

PL 215.50 AM, 1 count(s) of A Misd

And the Court having made a determination in accordance with section 530.12 of the Criminal Procedure Law,

IT IS HEREBY ORDERED that the above-named defendant JONES DERRELL (DOB: 03/14/1975) observe the following conditions of behavior:

- [02] Refrain from assault, stalking, harassment, aggravated harassment, menacing, reckless endangerment, strangulation, criminal obstruction of breathing or circulation, disorderly conduct, criminal mischief, sexual abuse, sexual misconduct, forcible touching, intimidation, threats, identity theft, grand larceny, coercion or any criminal offense against CARLISA WATSON;
- [12] Surrender any and all handguns, pistols, revolvers, rifles, shotguns and other firearms owned or possessed, including, but not limited to, the following: ALL and do not obtain any further guns or other firearms. Such surrender shall take place immediately, but in no event later than IMMEDIATELY at LOCAL PRECINCT;

IT IS FURTHER ORDERED that the above-named Defendant's license to carry, possess, repair, sell or otherwise dispose of a firearm or firearms, if any, pursuant to Penal Law §400.00, is hereby [13B] revoked, and [13C] the Defendant shall remain ineligible to receive a firearm license during the period of this order.

IT IS FURTHER ORDERED that this order of protection shall remain in force until and including 08/27/2020.

DATED: 03/10/2016

☒ Defendant advised in Court of issuance and contents of Order.

☐ Order to be served by other means [specify]: _____

☐ Warrant issued for Defendant

☒ Order personally served on Defendant in Court

(Defendant's signature)

☐ ADDITIONAL SERVICE INFORMATION [specify]: _____

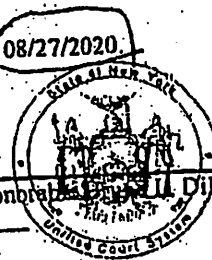
The Criminal Procedure Law provides that presentation of a copy of this order of protection to any police officer or peace officer acting pursuant to his or her special duties shall authorize and in some situations may require, such officer to arrest a defendant who is alleged to have violated its terms and to bring him or her before the Court to face penalties authorized by law.

Federal law requires that this order be honored and enforced by state and tribal courts, including courts of a state, the District of Columbia, a commonwealth, territory or possession of the United States, if the person against whom the order is sought is an intimate partner of the protected party and has been or will be afforded reasonable notice and opportunity to be heard in accordance with state law sufficient to protect that person's rights (18 USC §§2265, 2266).

It is a federal crime to:

- cross state lines to violate this order or to stalk, harass or commit domestic violence against an intimate partner or family member;
- buy, possess or transfer a handgun, rifle, shotgun or other firearm or ammunition while this Order remains in effect (Note: there is a limited exception for military or law enforcement officers but only while they are on duty); and
- buy, possess or transfer a handgun, rifle, shotgun or other firearm or ammunition after a conviction of a domestic violence-related crime involving the use or attempted use of physical force or a deadly weapon against an intimate partner or family member, even after this Order has expired. (18 U.S.C. 922(g)(8), §922(g)(9), 2261, 2261A, 2262).

Honorable Bruno L. DiBiase



Criminal Form 1 12/2013

At a term of the New York City Criminal Court, Queens County Branch, County of Queens,
 at the Courthouse at 125-01 Queens Blvd., Kew Gardens, NY 11415, State of New York

ORDER OF PROTECTION
 Family Offenses - C.P.L. 530.12

☐ Youthful Offender (check if applicable)
 Part: AP4

Case No.: 2015QN042984

Defendant Present in Court

use as a defense in an appropriate case; its absence did not have to be proved by the prosecution. *People v Sylla*, 792 N.Y.S.2d 764, 2005 N.Y. Slip Op 25031, 2005 N.Y. Misc. LEXIS 92 (N.Y. App. Term), app. denied, 4 N.Y.3d 857, 797 N.Y.S.2d 431, 830 N.E.2d 330, 2005 N.Y. LEXIS 1395 (N.Y. 2005).

Accusatory instrument charging defendant with criminal contempt in the second degree, under N.Y. Penal Law CLS Penal § 215.50(3), for willfully refusing to obey a subpoena, had to include both a copy of the subpoena in question and a supporting deposition that mirrored the proof of service requirements set forth in N.Y. C.P.L.R. CLS Penal § 306, which proved the element of defendant's awareness of the subpoena at the time of its alleged violation. *People v Griffin*, 809 N.Y.S.2d 814, 2005 N.Y. Slip Op 25466, 234 N.Y.L.J. 92, 2005 N.Y. Misc. LEXIS 2427 (N.Y. City Crim. Ct. 2005).

When defendant was charged with criminal contempt in the second degree, under N.Y. Penal Law CLS Penal § 215.50(3), for willfully refusing to obey a subpoena, the informations filed against her had to include both a copy of the subpoena in question and a supporting deposition that mirrored the proof of service requirements set forth in N.Y. C.P.L.R. CLS Penal § 306, to prove the element of her awareness of the subpoena at the time of its alleged violation, and, when the informations did not include this information, they had to be dismissed for facial insufficiency, under N.Y. Crim. Proc. Law §§ 100.15 and 100.40. *People v Griffin*, 809 N.Y.S.2d 814, 2005 N.Y. Slip Op 25466, 234 N.Y.L.J. 92, 2005 N.Y. Misc. LEXIS 2427 (N.Y. City Crim. Ct. 2005).

yes
Charges of second degree criminal contempt, N.Y. Penal Law CLS Penal § 215.50(3), and fourth degree stalking, N.Y. Penal Law CLS Penal § 120.45(2) were dismissed because the order of protection at issue directed that defendant have no contact with mother of his children, but did not restrain defendant from having contact with the individuals listed on the complainant's social internet account, which were the allegations underlying the charges; defendant was not directed to stay away from the complainant's friends and family. Further, there was no allegation that the communications at issue lacked a legitimate purpose and there was no allegation that defendant engaged in a course of conduct. *People v Welte*, 920 N.Y.S.2d 627, 2011 N.Y. Slip Op 21125, 2011 N.Y. Misc. LEXIS 1439 (N.Y. J. Ct. 2011).

Information charging defendant with criminal contempt in the second degree under N.Y. Penal Law CLS Penal § 215.50(3) was not jurisdictionally defective for failing to state that the crime did not arise out of a labor dispute because reference to N.Y. Jud. Ct. Acts Law CLS Penal § 753-a was required for a complete definition of the multiple circumstances constituting labor disputes, and the legislature did not require negation of each of those alternatives in every accusatory instrument under N.Y. Penal Law CLS Penal § 215.50(3); the labor disputes clause is a proviso that an accused may raise in defense of the charge rather than an exception that must be pleaded in the accusatory instrument. *People v Santana*, 7 N.Y.3d 234, 818 N.Y.S.2d 842, 2006 N.Y. Slip Op 5155, 851 N.E.2d 1193, 2006 N.Y. LEXIS 1762 (N.Y. 2006).

Justice in local criminal court had jurisdiction over second degree criminal contempt prosecution arising out of alleged violation of Family Court's custody and visitation order, and thus was absolutely immune from lawsuit asserting civil rights and malicious prosecution claims as result of that prosecution. *Brady v Marks*, 7 F. Supp. 2d 247, 1998 U.S. Dist. LEXIS 9244 (W.D.N.Y. 1998).

2. Constitutional considerations

yes one
A defendant could not properly be prosecuted in criminal court under Penal Law CLS Penal § 215.50 on a charge of criminal contempt in the second degree for allegedly violating a Family Court order of protection prohibiting him from striking, threatening or harassing his wife, where the Family Court would be the proper forum to enforce its orders in family offense proceedings, and where due process would require an adherence to the Family Court contempt provisions under which the defendant had been warned that he could receive up to a six-month jail sentence for willfully failing to obey the order, not the one year potential jail sentence provided for in the criminal contempt statute; thus the wife's three options, once the assault occurred subsequent to issuance of the order of protection, were to file a violation of the order of protection pursuant to Family Ct Act CLS Penal § 846, to file a new petition in the Family Court alleging assaultive conduct, or to commence an assault proceeding in the criminal court. *People v Mosley*, 121 Misc. 2d 4, 467 N.Y.S.2d 146, 1983 N.Y. Misc. LEXIS 3860 (N.Y. City Ct. 1983).

Defendant charged with criminal contempt under CLS Penal § 215.50(3) for threatening wife over telephone in violation of temporary order of protection (TOP) had standing to raise constitutional objections to statute authorizing issuance of TOP even though initial TOP he was accused of violating was no longer in effect. *People v Forman*, 145 Misc. 2d 115, 546 N.Y.S.2d 755, 1989 N.Y. Misc. LEXIS 598 (N.Y. City Crim. Ct. 1989).

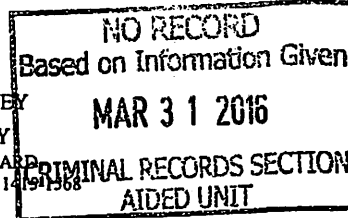
In prosecution for second degree criminal contempt in violation of CLS Penal § 215.50(3) based on violation of Family Court order of protection, court would reject contention that prosecution in Criminal Court would violate due process because defendant was advised, in Family Court proceeding, that violation of order of protection could result in jail sentence of up to 6 months whereas penal statute carried jail sentence of up to one year, since apparent disparity had been dealt with in CLS Penal § 215.54. *People v Jhon*, 150 Misc. 2d 842, 570 N.Y.S.2d 427 (N.Y. City Crim. Ct. 1991).

Order of protection issued in another state can serve as predicate for charge of second degree contempt under CLS Penal § 215.20(3) provided party seeking to enforce order shows that defendant was afforded due process before order was issued and was apprised by proper service of contents of order; further, New York court would have jurisdiction of such charge bottomed on allegation of violation of out-of-state order of protection since CLS CPL § 20.20(1)(a) confers jurisdiction on New York criminal courts



Richard A. Brown
District Attorney

DISTRICT ATTORNEY
QUEENS COUNTY
125-01 QUEENS BOULEVARD
KEW GARDENS, NEW YORK 11419-1368



(718) 286-6000
www.queensda.org

REQUEST FOR DOCUMENTS IN LIEU OF SUBPOENA DUCES TECUM

Police Commissioner, N.Y.P.D.
One Police Plaza, New York, NY 10038

Date: March 28, 2016

People v. **DERRELL JONES**
Docket No: 2016QN014581

The above criminal action is being prosecuted by our office. Pursuant to Chief of Department Memo Number three (3) dated October 22, 1990, the People hereby request the records listed below:

DATE INFORMATION REQUIRED BY: **APRIL 1, 2016**

DEFENDANT'S NAME:	DERRELL JONES	NYSID #:	07312436J
DOB:	March 14, 1975	ARREST #:	615201/16
CHARGE:	§PL 215.51	CRIME:	CRIMINAL CONTEMPT 1
ARRESTING OFFICER:	PO JOSEPH LOIACONO	PCT:	103
DATE OF OCC:	March 26, 2016	TIME:	18:00
PLACE OF OCC:	88-44 162 STREET		
DATE OF ARREST:	March 26, 2016		
PLACE OF ARREST:	89-44 162 STREET		

**AIDED CARD #: N/A FOR CARLISA WATSON
C/W WAS TAKEN TO JAMAICA HOSPITAL**

This (These) items will be picked up by a representative from the Queens District Attorney's Office

for:
C. Schneider
A.D.A. CAROLINE SCHNEIDER, Domestic Violence Bureau
Telephone #: (718) 286-5818
CCSchneider@queensda.org

Thank you for your assistance in this matter

Queens County District Attorney
Intake Bureau Crime Report
Domestic Violence Case
Messages

SYSTEM	SYSTEM	3/27/2016 9:43:00 AM	The affidavit was faxed from the precinct on 3/27/2016 at 9:43 AM. This was probably signed since Intake had already approved the affidavit.
SHLOMIT METZ	INTAKE	3/27/2016 9:21:00 AM	Affidavit Has Been Approved
SYSTEM	SYSTEM	3/27/2016 8:31:00 AM	Paperwork was faxed from the precinct on 3/27/2016 at 8:31 AM.
MARGARET CHEU	INTAKE	3/27/2016 8:02:00 AM	ADA/Paralegal assigned to this case: MARGARET CHEU
SOPHIA VILLACRESES	INTAKE	3/26/2016 10:52:00 PM	a/o is on transport and has not spoken to the cv. A/o will contact cv and will callback - SV 2111 a/o is at the hospital with the def and still has not reached out to the c/v - SV 2238 a/o is not answering his phone. Po Denicola's shift is over and is not working until 3/27/2016. - SV 2251
SOPHIA VILLACRESES	INTAKE	3/26/2016 10:38:00 PM	a/o is on transport and has not spoken to the cv. A/o will contact cv and will callback - SV 2111 a/o is at the hospital with the def and still has not reached out to the c/v - SV 2238
QCDA <i>Malicious Prosecution Claim</i>	SYSTEM	3/26/2016 9:46:00 PM	This is a Domestic Violence Case. Please note: 1. a corrob is required. 2. On page 2 of the DIR, the victim's name, suspect's name, incident date, and county ("QUEENS") MUST ALL BE FILLED IN. 3. If the victim does not speak english, a certificate of translation from someone who read her the complaint is needed. 3. If there is a physical injury or property damage (e.g, phone ripped from a wall,) a digital photo MUST be taken. 4. Please voucher the Order of Protection if it physically on the defendant.
SOPHIA VILLACRESES	INTAKE	3/26/2016 9:11:00 PM	a/o is on transport and has not spoken to the cv. A/o will contact cv and will callback - SV 2111
Intake	System	3/26/2016 9:10:00 PM	Welcome to the Queens District Attorney's office Complaint Typing System. Please call Intake once you fax your paperwork. You may also receive additional messages providing you with instructions on processing this case.
Officer	PD	3/26/2016 9:10:00 PM	Officer Contact Information. PD Contact Person: LOIACONO; Command Phone Number: ; Cell Phone Number: [REDACTED]
System	System	3/26/2016 8:21:00 PM	

Shows the H.D.A. trying to push my case through

I N D I C T M E N T

S U P R E M E C O U R T O F T H E S T A T E O F N E W Y O R K
C O U N T Y O F Q U E E N S

THE PEOPLE OF THE STATE OF NEW YORK

AGAINST

DERRELL JONES

DEFENDANT

2016QN014581

NYSID# 07312436J

FILED:

INDICTMENT NO. 784/2016

PL 215.52-1 AGGRAVATED CRIMINAL CONTEMPT (1)
PL 215.51-BV CRIMINAL CONTEMPT IN THE FIRST DEGREE (2)
PL 120.00-1 ASSAULT IN THE THIRD DEGREE (3)
PL 205.30 RESISTING ARREST (4)

A TRUE BILL

FOREMAN

DISTRICT ATTORNEY

New York State Unified Court System

WebCriminal

Case Details - Summary

CASE INFORMATION

Court: **Queens Supreme Court - Criminal Term**
Case #: **00784-2016**
Defendant: **Jones, Derrell**

Defendant

Name: **Jones, Derrell**
Birth Year: **1975**
NYSID: **7312436J**

Incident and Arrest

Incident

Date: **March 26, 2016**
CJTN: **67581953J**

Arrest

Date & Time: **March 26, 2016 18:00**
Arrest #: **Q16615201**

Officer

Agency: **NYPD**
Command: **103**

Attorney Information

Defense Attorney

Name: **Golombek, L**
Type: **18B (Assigned)**
Court Date: **April 25, 2016**
Court Part: **K15**
Address: **400 Post Avenue, Westbury, NY 11590**
Phone: **516 - 334 - 2120**

Assistant District Attorney

Name: **Schneider, C**
Assigned: **April 25, 2016**

Next Appearance

Date: **September 22, 2016**
Court: **Queens Supreme Court - Criminal Term**
Judge: **Modica, D**
Part: **K15**

Docket Sentence

No Sentence Information on File

New York State Unified Court System

WebCriminal

Case Details - Appearances

CASE INFORMATION

Court: **Queens Supreme Court - Criminal Term**
Case #: **00784-2016**
Defendant: **Jones, Derrell**

Date/ Part	Judge	Calendar Section	Arraignment/ Hearing Type	Court Reporter	Outcome/ Release Status
09/22/2016 K15	Modica, D	TRIALS AM	No Type		
08/09/2016 K15	Modica, D	TRIALS AM	No Type	Conti, D	Adjourned - Temporary Order Of Protection Issued Same Bail Conditions
06/27/2016 K15	Modica, D	TRIALS AM	No Type	Samms,	Adjourned - Temporary Order Of Protection Issued Same Bail Conditions
06/22/2016 K15	Modica, D	TRIALS AM	No Type	Samms,	Adjourned - Temporary Order Of Protection Issued Same Bail Conditions
04/25/2016 K15	Modica, D	TRIALS AM	No Type	Belmonte, C	Adjourned - Temporary Order Of Protection Issued Bond \$150,000 Cash \$150,000 (Not Posted)
04/15/2016 K15	Modica, D	ARRAIGNMENTS	Indictment - Domestic Violence Case	Wilson,	Pled Not Guilty - Temporary Order Of Protection Issued Remanded
04/05/2016 GRAND JURY		MISCELLANEOUS	No Type		True Bill - Temporary Order Of Protection Issued Remanded

New York State Unified Court System

WebCriminal

Case Details - Charges

CASE INFORMATION

Court: **Queens Supreme Court - Criminal Term**
Case #: **00784-2016**
Defendant: **Jones, Derrell**

Charge	Detail	Disposition/Sentence
PL 205.30 00	A Misdemeanor, 1 count, Not an arrest charge, Not an arraignment charge Description: <i>Resisting Arrest</i> Indictment Count: <i>4</i> Date Added: <i>04/15/2016</i>	
PL 120.00 01	A Misdemeanor, 1 count, Arrest charge, Arraignment charge Description: <i>Aslt W/int Causes Phys Injury</i> Indictment Count: <i>3</i>	
PL 215.52 01 **TOP CHARGE**	D Felony, 1 count, Not an arrest charge, Not an arraignment charge Description: <i>Agg Contempt-violate Op-Injury</i> Indictment Count: <i>1</i> Date Added: <i>04/15/2016</i>	
PL 215.51 B5	E Felony, 1 count, Not an arrest charge, Not an arraignment charge Description: <i>Crim Contempt-1st:phy Contact</i> Indictment Count: <i>2</i> Date Added: <i>04/15/2016</i>	

New York State Unified Court System

WebCriminal

Case Details - Motions

CASE INFORMATION

Court: **Queens Supreme Court - Criminal Term**
Case #: **00784-2016**
Defendant: **Jones, Derrell**

Motions

Date	Court Part	Type	Disposition	Activity	Date Filed
04/27/2016	K15	OMNIBUS			